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Committee on the Rights of the Child
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Summary record of the 1868th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 28 January 2014, at 10 a.m.

Chairperson: Ms. Sandberg

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The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties (*continued*)

Consolidated third and fourth periodic reports of Germany on the implementation of the Convention on the Rights of the Child (continued) (CRC/C/DEU/3-4; CRC/C/DEU/Q/3-4 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Germany took places at the Committee table.*

2. **Mr. Kleindiek** (Germany) said that the rise in the number of children withdrawn from their parents in recent years was due to the fact that youth social services had become more mindful of cases of neglect and violence and took legal action more often than in the past.

3. Both private and public companies were under the obligation to allow mothers breaks to breastfeed their child, and to provide them with special facilities for that purpose. That meant that mothers could, on request, take either two half-hour breaks or one hour-long break each day, at their convenience, in order to breastfeed their child.

4. The law ensured access to emergency health care to refugees and irregular migrants.

5. **Ms. Wijemanne** (Country Task Force) asked whether that meant that refugees and undocumented migrants did not have access to preventive care such as vaccinations.

6. **Mr. Kleindiek** (Germany) replied that, in accordance with paragraph 4 of the Asylum Seekers' Benefit Act, only emergency health care was provided.

7. **Ms. Wijemanne** (Country Task Force) asked whether Germany had adopted a code to regulate advertisements for breast-milk substitutes and the marketing of such products.

8. **Mr. Kleindiek** (Germany) said that the delegation did not have that information to hand but would provide it at a later date.

9. It had been recognized that behavioural disorders and attention deficit disorder in children gave rise to excessive medical prescriptions. New medical guidelines had been adopted, and the Federal Government was backing research projects into the question of the balance between medical and psychotherapeutic treatment.

10. Substance abuse and alcohol consumption were decreasing among young people. The authorities had tackled the issue of alcopops, the consumption of which had fallen significantly in recent years.

11. **Ms. Krieger** (Germany) said that the Sexual Pedagogy Institute ensured that information on sexuality was distributed to young people in various languages. A website devoted to sexuality had been set up and an awareness-raising and information campaign was under way. The impact of the measures would be evaluated and, if necessary, improvements would be made.

12. **The Chairperson** asked whether there were reproductive health services that young people could turn to in strict confidence, without being accompanied by their parents.

13. **Ms. Krieger** (Germany) said that there was a range of services and websites that enabled young people to obtain advice anonymously. Girls could consult a doctor without their parents' permission. Doctors were bound by medical confidentiality and did not inform parents of the content of consultations.

14. **Ms. Wijemanne** (Country Task Force) requested further information on the issue of suicide among adolescents. In particular, she wished to know how emotional problems among adolescents were handled.

15. **Ms. Loegering** (Germany) said that under the Federal Child Protection Act young people could contact services responsible for children and young people directly. A broad range of support measures was provided for young people. The Federal Ministry of Family Affairs, Senior Citizens, Women and Youth published and circulated information pamphlets on the services available.

16. **Ms. Kroeger** (Germany) said that Germany currently possessed only very limited data on cases of female genital mutilation in the country.

17. **Mr. Kleindiek** (Germany) said that the German authorities would do their utmost to develop legal provisions to combat cyber-bullying.

18. **Mr. Plate** (Germany) said that, in prisons, minors were fully segregated from adults.

19. Airport procedures for unaccompanied minors had been streamlined and expedited. In transit zones, rooms were specifically kept available for minors.

20. **Mr. Cardona Llorens** (Coordinator, Country Task Force) asked whether the procedure to establish the age of children was the same in all *Länder*.

21. **The Chairperson** asked whether a guardian or representative was appointed for all unaccompanied minors under the age of 18.

22. **Mr. Plate** (Germany) said that the issue of age assessment was being debated in Germany. It was very difficult to establish a person's age by medical means alone. The results obtained were not always accurate.

23. **Mr. Madi** (Country Task Force) requested further information on how the Asylum Procedure Act distinguished between minors under the age of 16 and those aged between 16 and 18 with regard to the submission of asylum applications.

24. **Mr. Plate** (Germany) said that the distinction, which was due to be removed under the coalition agreement reached by the Government, applied only to the ability to initiate asylum procedures, and not to the services offered. All unaccompanied refugee minors were cared for by youth services and they were assigned a guardian in all cases.

25. The procedure was longer for minors than for adults, owing to the additional guarantees that were afforded to minors.

26. **Mr. Madi** (Country Task Force) asked whether a minor who reached the age of majority during the procedure continued to receive the protection afforded to minors.

27. **Ms. Loegering** (Germany) said that, according to the legislation in force, the services received by minors continued to be provided for as long as they were needed, even once the minors had turned 18.

28. **Mr. Plate** (Germany) said that, since November 2011, schools were no longer required to report irregular children.

29. **Mr. Cardona Llorens** (Coordinator, Country Task Force) asked whether registration officials were always required to report irregular persons who came in to declare the birth of their child.

30. **Ms. Oviedo Fierro** and **Mr. Mezmur** asked what measures the State party implemented to ensure that priests who had sexually abused children in the country were held accountable before a court of law, especially in view of the long delays occurring in certain cases.

31. **Mr. Plate** (Germany) said that the requirement to report irregular persons had been waived only in educational establishments. Other State institutions were still subject to it.

32. **Mr. Kleindiek** (Germany) said that in the last five years or so the issue of sexual abuse committed in various establishments run by the State or Church had been troubling German society. An array of measures had been adopted to tackle the problem, including the creation of a compensation fund for victims, psychological and medical care services and a hotline for victims of sexual abuse.

33. Moreover, the Government had created a post for an independent expert responsible for matters pertaining to the sexual abuse of children.

34. The statutes of limitations for civil actions had been extended and the new Government had also decided to extend the statutes of limitations for criminal proceedings in cases involving the sexual abuse of children.

35. **Mr. Dittmann** (Germany) said that, in cases of sexual abuse, the statute of limitations ran from the victim's twenty-first birthday.

36. **Mr. Madi** (Country Task Force) asked whether religious authorities cooperated with the authorities over inquiries into sexual abuse committed by members of the clergy.

37. **Mr. Dittmann** (Germany) said that the members of the clergy in question were no longer in contact with minors.

Initial report of Germany on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (continued) (CRC/C/OPSC/DEU/1; CRC/C/OPSC/DEU/Q/1 and Add.1)

38. **Mr. Dittmann** (Germany) said that the statistics of the Federal Ministry of Justice related only to the number of complaints that had resulted in legal proceedings.

39. **Mr. Gurán** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) asked whether the authorities intended to set up a comprehensive data collection mechanism.

40. **Mr. Dittmann** (Germany) replied that, for the time being, no such mechanism existed.

41. **Ms. Oviedo Fierro** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) pointed out that such a mechanism would facilitate the monitoring of measures to implement the Optional Protocol.

42. **Mr. Plate** (Germany) said that, each year, the data collected by the police on victims of trafficking were compiled and disaggregated according to the nationality, sex and age of victims.

43. **Ms. Kroeger** (Germany) said that the Criminal Code criminalized all acts covered by the Optional Protocol, and that the perpetrators of trafficking offences incurred the penalties prescribed by article 236 of the Criminal Code.

44. **Mr. Kotrane** said that it was important to make the sale of persons a specific offence under the Criminal Code.

45. **Ms. Kroeger** (Germany) said that a code of good conduct had been established for the tourist industry in cooperation with the Federal Association of the German Tourism Industry.

46. **Mr. Gurán** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) requested further information regarding the code.

47. **Mr. Farzan** (Germany) said that the amount of compensation granted to victims of trafficking was prescribed the Crime Victims' Compensation Act.

The meeting was suspended at 11.25 a.m. and resumed at 11.50 a.m.

48. **Ms. Kroeger** (Germany) said that, over the past 10 years, Germany had introduced numerous changes to its criminal law in order to address shortcomings in respect of the criminalization of sexual abuse. The perpetrators of such abuse on children and vulnerable persons incurred a minimum penalty of 1 year's imprisonment.

49. **The Chairperson** wished to know the number of prosecutions and convictions of perpetrators of acts related to sex tourism.

50. **Ms. Kroeger** (Germany) said that she did not have up-to-date figures on such cases.

51. **Ms. Hosseinipour** (Germany) said that, following a round-table discussion on the prevention of sexual violence against minors organized in 2010, considerable resources had been allocated to multidisciplinary research work on the causes of such violence, with the aim of developing preventive activities.

52. **Ms. Oviedo Fierro** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) requested more detailed information on activities carried out in educational establishments to raise awareness of the issue of sexual violence against minors.

53. **Ms. Ryberg** (Germany) said that activities to raise awareness of the issues of sexual and gender-based violence were conducted in all *Länder*.

54. **Mr. Kleindiek** (Germany) said that a prevention programme entitled "Do not commit a crime", which was targeted at men with paedophilic tendencies who had not yet committed a crime, had been conducted in eight cities in the country for the past 10 years. Men could anonymously contact psychologists and psychiatrists working in mobile units that had been set up under the programme. If necessary, they were then directed to health-care institutions.

55. The Federal Criminal Police Office had a special investigations unit for child pornography on the Internet.

56. **Ms. Oviedo Fierro** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) said that it was worrying that the protection services for child victims of trafficking, prostitution and pornography were provided by non-governmental organizations (NGOs), whose activities were reliant on the amount of resources allocated to them. She would appreciate additional information on arrangements for the funding of NGOs by the *Länder*.

57. **Mr. Kleindiek** (Germany) said that the financing system worked well and that the budgets allocated to NGOs were renewed each year uninterruptedly.

58. **The Chairperson** asked whether child victims of an offence covered by the Optional Protocol, such as prostitution, could be subject to criminal prosecution.

59. **Ms. Oviedo Fierro** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) sought clarification on the assistance offered to irregular children in the State party.

60. **Mr. Kotrane** wished to know whether the State party planned to establish extraterritorial jurisdiction over cases of child sex tourism committed abroad, in which the alleged offender was a German national or had his habitual residence in the country, or the victim was a German national. Having read in the report under consideration that the criminal law of the State party was applicable to offences committed abroad by or against a German national if the act in question was a criminal offence in the place where it had been committed, he noted that many countries did not criminalize child pornography and that, if so, the perpetrators of such acts would not be prosecuted. He therefore wished to know

whether the State party intended to take steps to ensure that German courts were competent without requiring double jeopardy.

61. Lastly, he wished to know whether the State party could grant an extradition request in the absence of a bilateral extradition treaty and consider the Optional Protocol as a basis for extradition and, if so, whether such a situation had already arisen.

62. **Mr. Madi** wished to know whether the State party intended to distinguish between adults and children in the procedures to grant residence permits to victims of trafficking, and to prioritize the best interests of the child in that respect.

63. **Ms. Kroeger** (Germany) said that child victims of trafficking could not be prosecuted. She pointed out that article 4, paragraph 2, of the Optional Protocol did not oblige a State to establish its jurisdiction over the offences referred to in the Protocol that had been committed abroad, where the alleged offender was a national of the State concerned or a person who had his habitual residence in its territory, or when the victim was a national of that State, but instead provided that the State party "may take such measures as may be necessary" to that end. Article 7, paragraph 2, subparagraph (1), of the Criminal Code stipulated that German criminal law was applicable to all offences committed abroad if the act in question was a criminal offence in the place where it had been committed, or if the place was not subject to any criminal jurisdiction and the perpetrator was a German national at the time of the offence or had become one since.

64. The Federal Republic of Germany did not make extradition conditional on the existence of a treaty and fulfilled the obligation under article 5, paragraph 3, of the Optional Protocol.

65. **Mr. Plate** (Germany) said that the law regulating the conditions for granting residence permits did not require that the best interests of the child be taken into account, even when the child in question had been a victim of trafficking. Nevertheless, given that the Convention, which had been transposed into the domestic legal order as national law, enshrined the principle of the best interests of the child, all public bodies, including the immigration authorities, were required to respect it.

66. **The Chairperson** asked whether immigration officers received training on children's rights and had useful experience of methods of questioning children who appeared at the border.

67. **Ms. Khazova** (Country Task Force), understanding that the organizations tasked with managing "baby boxes" were heavily involved in the placement of abandoned children, said that she was concerned that, in reality, the practice might mask cases involving the sale of children, and that the persons responsible might benefit financially. She asked whether all the children concerned were duly entered in the civil registry, and whether follow-up procedures had been established to monitor placements.

68. **Ms. Winter** asked whether it was true that a growing number of children were withdrawn from their parents.

69. **Mr. Kleindiek** (Germany), supported by **Ms. Loegering** (Germany), said that the increase in the number of institutionalizations was due to the rise in the number of unaccompanied minors who appeared at German borders. Moreover, child protection services devoted more attention to the well-being of children within their families and had greater recourse to placement in institutions or with foster families. The families most affected by the measure were poor and single-parent families. Institutionalization was immediate whenever the child was in imminent danger or had requested the measure him or herself.

70. **Ms. Kroeger** (Germany) said that minimum standards with regard to "baby boxes" should be adopted in the near future to prevent any sale of children. The standards would make it mandatory to enter all children in the civil registry and register them with child protection services, and monitoring procedures would be established. No child placed in a "baby box" had ever disappeared, but the authorities had no information on what had eventually become of the children, namely whether they had been taken back by their mother, placed in an institution or put up for adoption.

71. **Mr. Cardona Llorens** (Coordinator, Country Task Force) said that, in its concluding observations, the Committee would note that there was a lack of statistical data in a number of areas, preventing it from obtaining a clear picture of the situation on the ground.

72. **Ms. Oviedo Fierro** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) said that she hoped the State party would manage to effectively combat child prostitution, pornography and trafficking by, in particular, placing more importance on the best interests of the child.

73. **Mr. Kleindiek** (Germany) said that the Government of Germany would endeavour to combat child poverty, ensure equal opportunities, establish a system of training and education in children's rights, and protect children from violence and abandonment.

The meeting rose at 12 55 p.m.